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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 100% SPEEDLAB, LLC, a California
14 company,

15 Plaintiff,

16 v.

17 H&H SPORTS PROTECTION USA,
18 INC., a California company

19 Defendant.

Case No. '15CV2620 GPC NLS

COMPLAINT

JURY TRIAL DEMANDED

20 Plaintiff 100% Speedlab, LLC ("100% Speedlab") for its Complaint against
21 Defendant H&H Sports Protection USA, Inc. ("H&H Sports Protection") avers as follows:

22 **PARTIES**

23 1. Plaintiff 100% Speedlab is a limited liability company organized and existing
24 under the laws of the State of California, having a principal place of business in San Diego,
25 California.

26 2. Defendant H&H Sports Protection is a California corporation with its principal
27 place of business at 6032 Triangle Drive, Commerce, California, 90040.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, et seq., trade dress infringement under the federal Lanham Act, 15 U.S.C. Section 1125(a), and related California state law claims.

4. This Court has jurisdiction over the subject matter of the Complaint pursuant to 28 U.S.C. §§1331 & 1338.

5. This Court has personal jurisdiction over H&H Sports Protection because it has its principal place of business in the State of California.

6. Venue is proper under 28 U.S.C. §§1391(b) and (c) and 1400(b).

BACKGROUND

7. 100% Speedlab manufactures, markets, and sells a line of extremely high-quality motocross goggle products.

8. On August 26, 2014 United States Design Patent No. D711,960 (the ‘960 patent) for a “GOGGLE” was duly and legally issued by the United States Patent and Trademark Office. A copy of the ‘960 patent is attached hereto as Exhibit A.

9. The ‘960 patent has been in force and effect since its issuance. 100% Speedlab has been at all times, and still is, the owner of the entire right, title and interest in and to the ‘960 patent.

10. 100% Speedlab has manufactured and sold its Racecraft, Accuri, and Strata models of motocross goggles throughout the United States since January 2012. Each of these goggles includes non-functional design elements in the ornamental shape of the goggle lens and frame that are inherently distinctive and have acquired secondary meaning such that in the minds of the public those design elements identify the source of the product as 100% Speedlab.

1 11. H&H Sports Protection has visited the offices of 100% Speedlab on multiple
2 occasions in support of its efforts to become a vendor for 100% Speedlab, and is very
3 familiar with the Racecraft, Accuri, and Strata models and their distinctive design features.

4 12. H&H Sports Protection is marketing and offering to sell throughout the
5 United States a line of goggles under the brand name JUST1 that infringes the '960 patent
6 and 100% Speedlab's trade dress rights.

7
8 **COUNT I**
9 **(INFRINGEMENT OF THE '960 PATENT)**

10 13. 100% Speedlab realleges and incorporates the previous paragraphs of this
11 Complaint as though set forth in full herein.

12 14. H&H Sports Protection has used, manufactured, offered for sale, sold and/or
13 caused to be imported into the United States products which literally and under the
14 doctrine of equivalents infringe the claims of the '960 patent in violation of 35 U.S.C.
§271.

15 15. 100% Speedlab has been damaged and has suffered irreparable injury due to
16 acts of infringement by H&H Sports Protection and will continue to suffer irreparable
17 injury unless H&H Sports Protection's activities are enjoined.

18 16. 100% Speedlab has suffered and will continue to suffer substantial damages
19 by reason of H&H Sports Protection's act of patent infringement alleged above, and 100%
20 Speedlab is entitled to recover from H&H Sports Protection the damages sustained as a
21 result of H&H Sports Protection's acts.

22 17. H&H Sports Protection has willfully and deliberately infringed the '960
23 patent in disregard of 100% Speedlab's rights.

24
25 **COUNT II**
26 **(TRADE DRESS INFRINGEMENT)**

27 18. 100% Speedlab realleges and incorporates the previous paragraphs of this
28 Complaint as though set forth in full herein.

1 C. Permanently enjoining and restraining H&H Sports Protection, its agents,
2 affiliates, subsidiaries, servants, employees, officers, directors, attorneys and those persons
3 in active concert with or controlled by H&H Sports Protection from further infringing the
4 '960 patent or 100% Speedlab's trade dress rights;

5 D. That H&H Sports Protection's acts of infringement were willful;

6 E. For an award of damages adequate to compensate 100% Speedlab for the
7 damages it has suffered as a result of H&H Sports Protection's conduct, including pre-
8 judgment interest and a trebling of such damages due to H&H Sports Protection's willful
9 infringement;

10 F. That H&H Sports Protection be directed to withdraw from distribution all
11 infringing products, whether in the possession of H&H Sports Protection or its distributors
12 or retailers, and that all infringing products or materials be impounded or destroyed;

13 G. For monetary damages in an amount according to proof;

14 H. For interest on said damages at the legal rate from and after the date such
15 damages were incurred;

16 I. That this is an exceptional case and for an award of H&H Sports Protection
17 attorney fees and costs;

18 J. For such other relief as the Court may deem just and proper.
19

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff 100% Speedlab hereby demands a jury trial as to all issues that are so
22 triable.

23 Dated: November 20, 2015 X-PATENTS, APC
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25 By: /s/Jonathan Hangartner

26 JONATHAN HANGARTNER

27 Attorneys for Plaintiff 100% Speedlab, LLC
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